

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	HEINTZEMAN ET AL.	Examiner:	J. TRAMMELL
Serial No.:	09/598,586	Group Art Unit:	2162
Filed:	JUNE 21, 2000	Docket:	8477.99USC1
Title:	COMPUTERIZED APPARATUS AND METHOD FOR AWARDING CREDITS TO PERSONS WHO TRANSACT ON-LINE PURCHASES		

**Hand Delivered**

Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

We are transmitting herewith the attached:

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**DEC 27 2000**

**Technology Center 2600**


- ☒ Transmittal Sheet in duplicate
- ☒ Information Disclosure Statement and Certification In Accordance With 37 C.F.R. 1.97(c), Form 1449, 59 Reference(s)
- ☒ Petition to Expunge Under 37 C.F.R. § 1.59(b)
- ☒ Check in the amount of \$130.00 fee for Petition to Expunge Under 37 C.F.R. § 1.59(b)
- ☒ Return postcard

The materials provided in this envelope are subject to a protective order and are being submitted for consideration under MPEP § 724.

Tribunal Issuing Protective Order:	U.S. District Court for the District of Minnesota, Third Division
Civil Action No.:	3-96-48
Date of Order:	May 28, 1996
Current Status of Proceeding:	Stipulated Dismissal
In re application of:	Heintzeman et al.
Application No.:	09/598,586
Filed:	June 21, 2000
For:	COMPUTERIZED APPARATUS AND METHOD FOR AWARDING CREDITS TO PERSONS WHO TRANSACT ON-LINE PURCHASES
Group Art Unit:	2162
Examiner:	J. TRAMMELL
ATTENTION:	John J. Love, Director of Examining Group 2162

Please consider this a PETITION FOR EXTENSION OF TIME for a sufficient number of months to enter these papers, if appropriate. Please charge any additional fees or credit overpayment to Deposit Account No. 13-2725. A duplicate of this sheet is enclosed.

MERCHANT & GOULD P.C.  
P.O. Box 2903, Minneapolis, MN 55402-0903  
612.332.5300

By:   
Name: Alan G. Gorman  
Reg. No.: 38,472  
AGG/RAK:pll



12-27-00  
S/N 09/598,586

# 4  
PATENT

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INFORMATION DISCLOSURE STATEMENT (37 C.F.R. §1.97(c))

Assistant Commissioner for Patents  
Washington, D.C. 20231

Dear Sir:

With regard to the above-identified application, the items of information listed on the enclosed Form 1449 are brought to the attention of the Examiner.

This statement should be considered because it is submitted before the mailing date of a first Office Action on-the-merits. Accordingly, no fee is due for consideration of the items listed on the enclosed Form 1449.

In accordance with 37 C.F.R. §1.98(a)(2), a copy of each document or other information listed on the enclosed Form 1449 is provided.

This application is a continuation of Serial No. 08/892,563, which is a file wrapper continuation of Serial No. 08/439,626, which is a continuation of Serial No. 08/385,381, which matured into U.S. Patent No. 5,483,444 ('444). The '444 patent was involved in litigation between its assignee, Radisson Hotels International, Inc. ("Radisson"), and Westin Hotel Company ("Westin"). In that litigation, Civil Action No. 3-96-48 RMK/JMM, Radisson charged Westin with infringement of the '444 patent. The litigation took place in the Third Division of the District of

Minnesota. Before a final verdict was reached, the parties reached a confidential settlement agreement on November 26, 1997.

During the course of litigation of the above-identified matter, information and documents were produced that may bear on the patentability of the current application. In keeping with Applicants' duty of disclosure under 37 C.F.R. § 1.56(a) and further in view of M.P.E.P. § 2001.06(c) involving information from related litigation, Applicants are submitting this Form 1449 with all documents that Applicants possess from the prior litigation that may be material to the patentability of this application.

Included on Form 1449 are pleadings submitted by Westin and Radisson in support and opposing a partial summary judgment motion made by defendant Westin during the litigation. In these pleadings, specific defenses against infringement of the '444 patent are disclosed, including defenses of lack of novelty due to prior publication, use, and sale and inequitable conduct. Also included are documents, affidavits, and deposition testimony cited in the pleadings and used to support these defenses. A small portion of Radisson's Memorandum in Opposition has been redacted as requested by Westin. This portion, which consists of less than one page, contained no information material to patentability.

A number of the documents identified in the litigation are subject to a protective order that remains in force after the settlement agreement between Radisson and Westin was reached.

Applicants have contacted Westin and secured their permission to submit documents produced by Westin to the Patent Office. Applicants submit such material according to M.P.E.P. § 724.02

~~defining~~ the method for submitting material subject to a protective order and ask that the material be handled according to M.P.E.P. § 724.04. Further, Applicants request that the Examiner identify and expunge any submitted documents that the Examiner finds not to be material to patentability, as

provided in M.P.E.P. § 724.05, according to Applicants' petition filed under 37 C.F.R. 1.59(b) and fees paid according to 37 C.F.R. 1.17(i).

In addition to the documents provided on Form 1449, there are four documents that were provided as attachments to Westin's brief but are owned by third parties that were not parties to the suit. Therefore, Radisson was unable to secure permission from Westin and Westin could not provide permission to submit these documents to the Patent Office because of the protective order. These documents consist of transcript testimony by third parties regarding possible disclosures made by Radisson to the public. A summary of the factual content of this testimony is provided below.

In the first transcript excerpt, the deponent indicated that Radisson employees allowed participants at a conference held in the fall of 1992 to sign up with Radisson to request to participate in the upcoming Look to Book program. In the second transcript excerpt, the deponent testified that in the fall of 1992 he received a letter, dated September 16, 1992, from Radisson offering participation in the Look to Book program. Prior to receiving the letter, the deponent discussed with Radisson employees the Look to Book program. The third deponent indicated that in the spring of 1992, a Radisson employee approached her company to discuss the elements of the promotion and that contact culminated in an oral agreement between Radisson and that company before the conference held in the fall of 1992. Finally, the fourth deponent described a meeting with Radisson employees in which Radisson described details of the Look to Book program, culminating in an agreement between the deponent's business and Radisson on September 17, 1992.

If, after review of the submitted information and summaries relating to the above-identified litigation, the Examiner requires additional information relating to information disclosed during the

litigation, Applicants will diligently attempt to provide the Examiner with all such information that is at Applicants' disposal.

No representation is made that a reference is "prior art" within the meaning of 35 U.S.C. §§ 102 and 103 and Applicants reserve the right, pursuant to 37 C.F.R. § 1.131 or otherwise, to establish that the reference(s) are not "prior art." Moreover, Applicants do not represent that a reference has been thoroughly reviewed or that any relevance of any portion of a reference is intended.

Consideration of the items listed is respectfully requested. Pursuant to the provisions of M.P.E.P. 609, it is requested that the Examiner return a copy of the attached Form 1449, marked as being considered and initialed by the Examiner, to the undersigned with the next official communication.

Please charge any additional fees or credit any overpayment to Deposit Account No. 13-2725.

Respectfully submitted,  
MERCHANT & GOULD P.C.  
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Date:

12/22/00



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